



Regional Airline Association
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May 24, 2004

U.S. Department of Transportation Dockets
Docket No. FAA-2004-17168
400 Seventh Street, SW
Room Plaza 401
Washington, DC 20590.

SUBJECT: Review of Regulations; FAA Request for Public Comments

Gentlemen/Madam:

The Regional Airline Association (RAA) submits the following comments on behalf of our membership (Attachment A).

Improper Use of Rulemaking Appendices for Advisory Material: Lately, FAA policy seems to support the notion that certain advisory material currently contained in Advisory Circulars (AC) should instead be placed into the Appendices of the FAA rules (FAR's). AC's provide "one means but not the only means of achieving compliance with a performance based rule. In the proposed rules that advocate this policy, their justification is not based upon policy that the FAA indeed wants the industry to conform to only "one means of compliance" but rather that advisory material placed into an appendix will somehow make the FAA revision process of such material more efficient. FAA AFS now seems to think that it is easier to revise an appendix to a rule than an AC.

The first proposal to advocate increased use of the appendices for advisory material is the Part 60 NPRM [docket FAA-2002-12461]. The two AC's currently used as conformance documents for the design of aircraft flight simulators are proposed as an appendix to Part 60 and described as a Qualification Performance Standard (QPS). Adoption of the Part 60 QPS proposal would add nearly 400 (PDF formatted) pages into the regulations.

Other proposal that seek to greatly expand on the use of appendices are the Hazmat training NPRM [docket FAA-2003-15085], Part 135 Flight Attendant training and Part 121 N&O draft proposals [no open dockets yet]. RAA see absolutely no merit in using the appendices in lieu of AC's and have expressed our views in each of the open dockets. Once adopted QPS and the increase use of the appendices will add hundreds if not thousands, of non regulatory pages to the regulations.

The use of Appendices in the regulations should be used sparingly. Chapter 7.8 of the Federal Register Document Drafting Handbook states that an "appendix (to a rule is) to improve the quality or use of a rule but not to impose requirements or restrictions" and that an appendix is not to be used as a "substitute for regulatory text"; yet that is precisely what was being proposed by the FAA. The preamble to the Part 60 NPRM anticipated "minor changes" to the voluminous use of the appendix and proposed to "streamline the process for making technical changes for



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delegating final review and issuance from the Administrator to the Director Flight Standards Service.” While we certainly support the concept to make the FAA more efficient, we find this justification for expanding the use of appendices to be totally misleading. For example, Appendix C to Part 147 (Aviation Maintenance Technician Schools) contains a curriculum requirement to teach “wood repair” and “dope and fabric”. For years the schools, the industry and even FAA staff have sought revision to the appendix C curriculum and for years FAA management advises that the rulemaking project to upgrade the curriculum is so low in priority, it is “virtually impossible” to introduce. How is it that calling an appendix, a QPS will change the priorities of the FAA?

Industry can of course petition the FAA if they find that an appendix needs to be changed but we all know the laborious process involved in being granted an exemption to a rule. Some of our members report difficulty of being granted an exemption to petitions that are simply time extensions to existing exemptions. In some instances the time required to process such changes is 12 or more months. Other members report having submitted new petitions, then waiting several years to be told that their request is denied because it is not a top priority. As we understand the process, Administrative approval is not required for reviewing petitions and granting exemptions so it is obvious to us that “streamlining the process” to quickly accomplish minor changes to a future QPS appendix will never happen. Industry can now deviate from AC advisory material but cannot deviate from the rules and the appendices without petitioning the FAA and being granted an exemption. We can certainly understand the plight of the FAA given the limited manpower to cover our industries needs; however it is simply unrealistic for us in industry to expect that a future petition requesting regulatory change in a QPS will ever be given sufficient priority for a QPS revision to be received in a timely manner.

Apparently someone within the FAA has lately recognized the difficulty in revising a future QPS. The latest Part 60 QPS proposal as a result of ARC deliberations now places a column to the left of the text explaining what materials are mandatory and what materials are “informational”. The “informational” materials are to be treated as if it were in an Advisory Circular (AC); they aren’t in an AC however but interspersed within the rulemaking text. The preamble states nothing on why such materials cannot remain within AC’s but describes how easy it will be to revise a future QPS. We are not aware of any FAA policy change to eliminate AC’s so industry would have two different methods of receiving FAA approved advisory materials. Also the concept of using columns to describe what is advisory and what is mandatory cannot be found in any regulatory guidance material so will it really work as the ARC group imagines? The FAA should be working on clarifying and simplifying the regulations and their policy on regulations; the FAA has not made the case on why a QPS will be superior to an AC in containing informational material; QPS clearly is a step backward in rulemaking and FAA policy.

We also find disturbing that the proposed increased use of appendices and the QPS concept is being introduced to the industry through selective dockets where industry exposure is limited. QPS and the use of appendices as a resting place for current advisory material will have a profound impact on FAA rulemaking in general and should be openly discussed as a separate regulatory policy before it is added to any of the FARs.



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RAA request a public meeting to discuss QPS and the increased use of appendices for advisory material before any rule advocating such changes is adopted.

Mechanical Reliability Reporting (MRR) Alternative: For as long as most of us can remember, the U.S. air carriers have been reporting MRRs in accordance with FAR 121.703/135.415 so that FAA Oklahoma can produce the Service Difficulty Reports (SDRs). Millions of data entries have been submitted over the years (also millions of dollars spent not only on data processing but on defending against FAA enforcement actions on interpreting what data should actually be submitted) yet most within the industry know that there is little if any benefit in collecting such data. Indeed nearly all airworthiness concerns resulting in Airworthiness Directives are generated as a result of OEM/air carrier communications independently of the SDR process. FAA management seems to recognize the limited value of the SDR system by gratefully extending the compliance periods of an amendment to greatly increase MRR reporting (Amendments 121-279/135-77). RAA suggests that the FAA consider rulemaking that offers an air carrier an option of not reporting MRR's provided they have a FAA approved system in place to communicate their airworthiness issues with their OEM. The OEM's are of course required to report similar "failures, malfunctions, and defects" under FAR 21.3 reported to them by the air carriers. Such carriers would not have to submit MRR data to FAA Oklahoma. Operator's of aircraft that don't have good systems of communicating with their airframe OEM's would not qualify and thus continue reporting their MRR data. Obviously additional guidance would have to be developed to describe this alternative but in this era of making every dollar count (for the FAA and the air carriers) we think it's time to rethink the SDR process and acknowledge the current process for communicating airworthiness concerns that actually works.

RAA request that the FAA consider rulemaking that offers an air carrier an option of reporting MRR if they have a FAA approved system of communicating their airworthiness issues with their OEM.

Your consideration of our comments and requests, is appreciated.

Sincerely,

David Lotterer
Vice President - Technical Services

Attachment A:

Company

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Enfield, Nova Scotia, Canada
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American Eagle	Dallas, TX
Atlantic Coast Airlines	Dulles, VA
Atlantic Southeast (ASA)	Atlanta, GA
Big Sky Airlines	Billings, MT
Cape Air	Hyannis, MA
Chautauqua Airlines	Indianapolis, IN
Chicago Express	Chicago, IL
Colgan Air	Manassas, VA
Comair	Cincinnati, OH
CommutAir	Plattsburgh, NY
Corporate Air	Billings, MT
Corporate Airlines	Smyrna, TN
Empire Airlines	Coeur d'Alene, ID
Era Aviation	Anchorage, AK
Executive Airlines	Farmingdale, NY
ExpressJet	Houston, TX
Federal Express (commuter ops)	Memphis, TN
Flight Options	Johnson City, NY
Grand Canyon Airways	Grand Canyon, AZ
Great Lakes Aviation	Bloomington, MN
Gulfstream International	Miami Springs, FL
Horizon Air	Seattle, WA
IBC Airways	Miami, FL
Island (Aloha) Air	Honolulu, HI
Mesa Airlines	Phoenix, AZ
Mesaba	Minneapolis, MN
Midway Airlines	RDU Int'l Airport, NC
New England Airlines	Westerly, RI
Pace Aviation	Winston-Salem, NC
Piedmont Airlines	Salisbury, MD
Pinnacle Airlines	Memphis, TN
PSA Airlines	Vandalia, OH
Salmon Air	Salmon, ID
Scenic Airlines	N. Las Vegas, NV
Seaborne Airlines	US Virgin Islands
Shuttle America	Windsor Locks, CT
Skyway Airlines	Oak Creek WI
Skywest	St. George, UT
Trans States	St. Louis, MO

* foreign based air carrier